

## SALES COMMISSION AGREEMENT

between

**Systems Applications Products (South Africa) (Proprietary) Limited**

- hereinafter referred to as "SAP" –

of

SAP Business Park, 1 Woodmead Drive, Woodmead, 2148, South Africa

and



**CAD House cc**

- hereinafter referred to as "Consultant" -

of

157 Bauhinia Street, Centurion, Pretoria, 0157, South Africa

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**PREAMBLE**

WHEREAS, SAP markets, licenses, sells and/or distributes certain computer software and provides maintenance and support services in relation to such software;

WHEREAS, Consultant wishes to facilitate specific contractual opportunities concerning software of SAP and related support services;

WHEREAS, SAP, relying on the representations and undertaking given by the Consultant, desires to grant Consultant, as an independent undertaking, the non-exclusive and non-transferable right to facilitate for SAP the conclusion of contracts concerning certain software and related support services with third parties including the marketing and promotion of such software and services;

Now, therefore, in consideration of these premises, SAP and Consultant agree as follows:

1. **DEFINITIONS**

- 1.1 "Agreement" shall mean this Sales Commission Agreement including all Annexes hereto.
- 1.2 "Customers" shall mean those companies, business people and public institutions, which enter or intend to enter into an agreement with SAP for the use of the Products or Services.
- 1.3 "Customer Contracts" shall mean the agreement entered into between SAP and the Customer, as referred to in an Appendix hereto.
- 1.4 "Products" shall mean the SAP software and related products provided by SAP under a Customer Contract.
- 1.5 "Services" shall mean all maintenance and support services provided by SAP under a Customer Contract.



2. **APPOINTMENT OF CONSULTANT**

- 2.1 Subject to the terms and conditions set forth in this Agreement, SAP hereby appoints Consultant on an independent, non-exclusive third party basis to provide services in relation to the Products and Services for specific Customers and the respective Customer Contracts. With this appointment, SAP authorizes Consultant to procure opportunities for SAP to conclude contracts concerning the Products and Services with Customers.

Consultant is, however, not authorised to negotiate or conclude contracts specifically the terms and pricing thereof, on behalf of SAP nor to otherwise represent, bind or oblige SAP in legal transactions.

- 2.2 Consultant may refer to itself as "Authorised Third Party Sales Commission Agent" for the Products and Services. Consultant shall, however, neither assert nor create the impression vis-à-vis third parties that it is entitled to transact

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business for SAP.

- 2.3 Consultant may not assign or transfer to a third party its rights and obligations under this Agreement without SAP's prior written consent.
- 2.4 Consultant shall not obtain on SAP's behalf or provide to SAP any information which is not legally available in the applicable territory, or which is procurement-sensitive, proprietary, or classified where there is reason to believe that possession of such information is unauthorized, illegal, or unethical.
- 2.5 Consultant shall not pay or tender directly or indirectly any commission or finder's or referral fee to any firm or person (i.e. government officials, including employees of all parastatals, political party officials or candidates, public interest groups and relatives or officer or employee of any public international organization or an immediate family member of such persons (such parties **Prohibited Parties**)) in connection with its activities on behalf of SAP. Moreover Consultant shall not pay or offer or agree to pay any political contribution or donation in respect of any business for which it provides services to SAP.

3. **FURTHER OBLIGATIONS OF THE CONSULTANT**

- 3.1 During the term of this Agreement, the Consultant shall, subject to instructions and directives issued by SAP from time to time, have the following obligations:
  - (a) maintain regular contact with the Customers for the purpose of identifying potential sales opportunities for the Products and Services, as well as informing SAP regarding the requirements of the Customer for the Products and Services, and participating in meetings between SAP and the Customer if SAP asks Consultant to do so.
  - (b) ensure adequate office facilities and a sufficient number of qualified staff possessing sufficient technical knowledge of the Products and Services for the proper fulfilment of obligations of the Consultant pursuant to this Agreement.
  - (c) assist SAP at SAP's request in collecting claims outstanding and the clearance or return of guarantee deposits and bank guarantees granted by SAP in a Customer Contract.
  - (d) assist SAP and the Customer in obtaining the requisite permits from the authorities to the extent required for the sale and the use of the Products and the sale and the provision of the Services.
- 3.2 Consultant shall inform SAP immediately about any opportunity which is likely to lead to the conclusion of a contract between SAP and a Customer.
- 3.3 Consultant acknowledges the rights of SAP, and of its ultimate parent, SAP SE, and companies affiliated with SAP SE, in the trademarks, business names and corporate signs used by them. Consultant shall refrain from any acts which might damage the reputation of these marks of SAP or of companies affiliated with SAP. Consultant shall refrain from acts aimed at registering or having registered

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such marks – or marks sufficiently similar to the same so as to pose a risk of confusion with these – in its own name, nor shall it claim and postulate rights in such marks.

- 3.4 Consultant shall, and shall ensure that all agents, sub-consultants and other persons acting on its behalf, conduct its operations at all times in strict compliance with all applicable laws, rules and regulations. Moreover Consultant shall take no action which would be expected to subject SAP and/or SAP SE or companies affiliated to SAP SE to penalties under German, United States and/or territory laws, regulations and administrative requirements.
- 3.5 Consultant shall not make any payments or gifts or any offer or promises of gifts of any kind directly or indirectly to any employee of any potential Customers.
- 3.6 Consultant shall obtain licenses or completed such registrations in the territory as may be necessary or required to perform the duties as set forth in this Agreement.
- 3.7 The Consultant represents and warrants to SAP that:
- (a) The Consultant, its associates and employees and any other person acting on its behalf
- (i) have not directly or indirectly paid, offered or promised to pay, or authorised the payment of, and
  - (ii) will not directly or indirectly pay, offer or promise to pay, or authorise the payment of,
- any monies or anything of value to government officials, including employees of all parastatals, political party officials or candidates, public interest groups and respective relatives or officer or employee of any public international organization or an immediate family member of such persons (such parties, **Prohibited Parties**) for the purpose of influencing any act or decision of such official or of the government in order to secure or retain business on behalf of SAP (such payments, **Prohibited Payments**);
- (b) neither the Consultant, nor any of its employees, associates or any other person acting on its behalf:
- (i) was a Prohibited Party during the period from 90 days prior to the signing of this Agreement,
  - (ii) is currently a Prohibited Party, or
  - (iii) will become a Prohibited Party during the term of this Agreement; and

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- (c) in the event that during the term of this Agreement there is a change in the information contained in this paragraph, the Consultant agrees to make immediate disclosure to the SAP, and in that case, SAP may immediately terminate this Agreement by written notice.
- 3.8 Consultant warrants that no direct or indirect owner of the Consultant is a Prohibited Party or an immediate family member of such persons. The Consultant shall promptly advise SAP of any change in the financial or ownership interests in the Consultant. If, in the opinion of SAP, such change substantially affects the financial or ownership interests in the Consultant, SAP may immediately terminate this Agreement by written notice.
- 3.9 The Consultant agrees that it will, at the request of SAP, and at least annually, certify that it has not, and to its knowledge no other person, including but not limited to every employee and associate of the Consultant, made, offered to make, agreed to make or authorized the making of any Prohibited Payments. The Consultant further agrees that should it learn of or have reason to know of any such payment, offer, agreement or authorization to make a Prohibited Payment in connection with SAP's business, it will immediately advise SAP of such knowledge or suspicion.
- 3.10 SAP may disclose the terms of this Agreement to government agencies and other persons with a legitimate need for such information.
- 3.11 In the event SAP has reason to believe that a breach of any of the representations and warranties in clause 3.7 above has occurred or may occur, SAP may withhold further payments until such time as it has received confirmation to its satisfaction that no such breach has occurred or will occur. SAP shall not be liable to the Consultant for any claims, losses or damages whatsoever related to its decision to withhold payments under this provision.
- 3.12 SAP may at any time audit the activities and records of the Consultant and its employees, associates, agents, sub-consultants or any other person acting on its behalf. In the event SAP has reason to believe that a breach of any of the representations and warranties in clause 3.7 above has occurred or may occur, SAP shall have the right to audit the activities and records of the Consultant or any of its employees or associates in order to satisfy itself that no such breach has occurred. Upon the Consultant's written request, SAP shall select an independent third party to conduct such audit. The Consultant shall, and shall cause its employees and affiliates to, fully cooperate in any audit conducted by or on behalf of SAP.
- 3.13 In the event of a breach of any of the representations and warranties in clause 3.7 above, SAP shall be authorised to immediately terminate this Agreement. All claims for payment by the Consultant shall be automatically terminated and cancelled and all commission payments previously paid shall be forthwith refunded to SAP by the Consultant. The Consultant shall further indemnify and hold SAP harmless against any and all claims, losses or damages arising from or related to such breach or the cancellation of the Agreement, or both.



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- 3.14 Consultant warrants that neither the Consultant nor any of its employees or associates nor any near relative of the Consultant is shareholder or a member of the management of the potential Customers.
- 3.15 Consultant warrants that it has not been convicted of or pleaded guilty to an offense involving fraud, corruption or dishonesty and that it is not now listed by any government agency as debarred, suspended, proposed for suspension or debarment or otherwise ineligible for government procurement programs.
- 4. NON-COMPETITION/NO SOLICITATION**
- 4.1 During the term of this Agreement, Consultant shall not manufacture, provide, sell or market products or services which compete directly or indirectly with products or services offered by SAP unless SAP has given its written consent thereto. This prohibition includes the ban to establish undertakings, acquire shares to undertakings, participate in undertakings or support undertakings which engage in aforementioned activities.
- 4.2 Consultant shall not solicit or try to solicit other Consultants of SAP or employees of SAP during the term of this Agreement.
- 4.3 In any case of an infringement of Consultant's obligations provided for in Clause 4.1 and 4.2, Consultant shall pay a contractual penalty the amount of which shall be set by SAP in an equitable manner. The contractual penalty may be reduced by the competent court according to Clause 16 if SAP has not set it in an equitable manner. Further claims of SAP for damages shall remain unaffected.
- 5. OBLIGATIONS OF SAP**
- 5.1 SAP shall make available to Consultant at no charge and within a reasonable scope its standard sales documents and product descriptions relating to the Products and Services.
- 5.2 SAP shall make accessible to Consultant at no charge such technical and commercial information with reference to the Products and Services including advertising and marketing material that is required for the fulfilment of the obligations of Consultant under this Agreement, and shall advise Consultant to a reasonable extent on the marketing methods for the Products and Services.
- 6. TRANSACTION OF BUSINESS**
- 6.1 Consultant shall assist SAP in the preparation and conclusion of sales transactions for Products and Services and shall in particular act promptly and with the requisite care when providing such services and engaging with Customers for the Products and Services.
- 6.2 Consultant shall pass on all inquiries and purchase orders of Customers with regard to the Products and Services to SAP. At the request of SAP, Consultant shall pass on to the Customers SAP's quotations and answers to Customer inquiries.

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- 6.3 The sale of Products and Services shall take place exclusively at the terms and conditions stipulated by SAP for this purpose.
- 6.4 SAP shall decide at its own discretion on the acceptance or refusal of a purchase order or other form of request of a Customer. Consultant shall not be entitled to any commission or other consideration under the terms of this Agreement for the provision of the services hereunder unless or until SAP has received from the Customer a Customer Contract signed by the Customer's duly authorised officer or representative for the provision by SAP to the Customer of the applicable Products and/or Services.

7. **COMMISSION**

7.1 Consultant's claim for Commission

Consultant shall earn a commission for any Customer Contract which has been concluded between SAP and the Customer as a direct result of the Consultant's efforts and only if there is a complete and accurate description of the services performed. To the extent that a Customer Contract is a framework contract, the Consultant's claim to commission shall be restricted to those purchase orders/Customer requests accepted by SAP.

Consultant shall, however, not receive commission or, alternatively will reimburse SAP commission already received:



- (a) for "follow-up" Customer Contracts which are concluded between SAP and a Customer, with whom Consultant has previously arranged the conclusion of a Customer Contract;
- (b) if Customer does not pay for the Products and Services although they have been delivered in accordance with the respective Customer Contract; and/or
- (c) if Customer does not pay because the Customer Contract will not, partially not, or not in the manner agreed upon be performed due to reasons beyond the control of SAP.

7.2 Amount of Commission

Commission earned by Consultant shall be an amount specified in an Appendix to this Agreement, less any cost of transport, packaging, insurance, discounts, allowances and any other amounts specifically excluded in such Appendix. For the avoidance of doubt, commission fees are not payable on maintenance/support services provided by SAP to Customers.

If the conclusion of a Customer Contract is a direct result of the Consultant's effort and the effort of other consultants of SAP, commission for such Customer Contract shall be payable to respective consultants according to a pre-determined agreement.

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Aforementioned commission excludes any applicable statutory value-added, general sales or tax.

Commission shall only be earned if permissible under applicable law, regulation or administrative requirement.

The commission shall be the sole consideration payable by SAP to Consultant and shall in particular also cover the expenses incurred to the Consultant in the course of its services in terms hereof.

7.3 Due Date

SAP shall submit to Consultant a statement of the Consultant's commission. This statement shall identify Consultant's commission claims according to Clause 7.1 and 7.2 insofar as Customers have already paid the remuneration owed to SAP in respect of Products and Services.

Commission shall be due within ten days of said statement and shall be paid by SAP within 30 days after due date by transfer of the commission owed to a bank account of the Consultant or by delivery of a cheque.

7.4 Set-off/Right of retention

SAP is entitled to set-off and deduct from the commission any amounts howsoever owing by the Consultant to SAP.

8. **DAMAGES**

The liability of SAP under this Agreement to Consultant, howsoever arising, shall be limited to the total commission payable by SAP to Consultant. In no event shall SAP be liable to the Consultant for: (a) indirect or special damages and/or (b) loss of income or profit, howsoever arising whether or not caused by its employees, agents and/or contractors, and regardless of form or cause of action. The provisions of this clause are also stipulated for the benefit of the employees, agents and/or contractors of SAP.

9. **INFORMATION ABOUT THE CONSULTANT**


The Consultant shall provide all background information on its company. The Consultant shall notably inform SAP of any change in its ownership or controlling relationships and of changes in its organisation or business method.

10. **TERMINATION OF THE AGREEMENT**

10.1 Either Party has the right to terminate this Agreement for good cause. Such good cause exists in particular if:

- (a) the other Party becomes insolvent, an admissible petition for initiation of insolvency proceedings against the assets of the other Party has been filed and such proceedings have, any such application has been rejected due to lack of assets, or any executions against the other Party have been fruitless; or

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- (b) the other Party has breached a material provision of this Agreement and did not remedy such breach after an adequate curing period set forth by the other party. The other Party may terminate the Agreement without having set forth a curing period, if a breach of this Agreement cannot be remedied or a continuation of this Agreement cannot reasonably be expected. Material provisions are notably those provisions as set forth in clause 2, 3, 4, 6 and 12; or
  - (c) a change of control over the Consultant that affects the interests of SAP.
- 10.2 Either Party has the right to terminate this Agreement by providing 30 days written notice to the other Party of its intention to terminate.
- 10.3 Notices have to be in writing.
- 10.4 Upon termination of the Agreement, the Consultant shall discontinue without undue delay all marketing and promotional activities for the Products and Services and return to SAP all sales documents, product descriptions and other documents in connection with the marketing of the Products and Services which SAP has provided to Consultant, as well as all other materials, goods, equipment items software and documentation belonging to SAP and irretrievably delete any copies stored in whatsoever medium.

**11. COMPENSATORY CLAIM IN CASE OF TERMINATION**

The termination of this Agreement in accordance with its terms shall not entitle Consultant to any compensation or the payment of any commission or fees after the date of termination, notwithstanding that such compensation may be vested prior to termination.



**12. PERIOD OF LIMITATION**

- 12.1 Either Party may bring an action for a claim within 6 months of discovery of such claim. Should facts relating to a claim be unclear at the date of discovery, the Party claiming shall lodge such claim within 6 months of the facts becoming available to the Party. All claims based on or in connection with this Agreement irrespective of knowledge, shall become barred by limitation 2 years after they have fallen due.

**13. CONFIDENTIALITY**

- 13.1 Consultant may use the trade and business secrets it obtained knowledge of from SAP only for the performance of this Agreement and notably must not make these accessible to third parties. Trade and business secrets notably comprise all information which Consultant obtained knowledge of in connection with the intended conclusion and performance of this Agreement and which has been marked as confidential or secret, or for which confidentiality or the need to keep secret is apparent from the circumstances or the content of the information.
- 13.2 Employees of Consultant who are obliged to know such trade and business secrets for the proper performance of this Agreement and with whom Consultant

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which ensures that they have been informed of the confidentiality undertaking contained herein and who are obliged to adhere to such obligation shall not be deemed third parties within the meaning of Clause 13.1.

- 13.3 The confidentiality undertaking shall not apply if Consultant can furnish proof that the trade and business secrets concerned (a) were already known to it prior to obtaining these from SAP, or (b) are or become generally known through no fault of Consultant, or (c) were disclosed to it by another person without the latter violating contractual or statutory obligations by obtaining or conveying such information, or (d) were independently developed by the Consultant, or (e) have to be disclosed under statutory regulations, or (f) have to be disclosed due to a court order or an obligation under administrative law, or (g) may be disclosed by the Consultant as a result of SAP releasing it from its confidentiality undertaking.
- 13.4 The Consultant shall use all economically feasible efforts to keep confidential the documents and information made available to it by SAP, and notably treat them with the same care as its own documents and information of similar importance.
- 13.5 The duties set out in clauses 13.1 to 13.4 shall continue to apply even after termination of this Agreement until the business and trade secrets become publicly known.
- 13.6 Clauses 13.1 to 13.5 shall apply analogously vis-à-vis SAP for trade and business secrets of the Consultant.

14. **PUBLICATIONS**

Publications of the Consultant in connection with the subject matter of this Agreement require SAP's prior written consent except where such publication is required by law or on the basis of provisions of a stock exchange or a public authority. SAP shall not unreasonably refuse its consent.



15. **GOVERNING LAW**

All legal relations in connection with this Agreement shall exclusively be governed by and this Agreement shall be construed in accordance with the laws of South Africa.

16. **PLACE OF JURISDICTION**

- 16.1 SAP's registered office shall be the exclusive place of jurisdiction for all disputes arising out of or in connection with this Agreement. SAP shall, however, be entitled to bring claims against Consultant at Consultant's place of business.
- 16.2 Before having recourse to the ordinary courts, an alternative dispute resolution procedure is to be conducted according to the mediation rules of the United Nations Commission on International Trade Law ("UNCITRAL"). If disputes are not resolved in accordance with the mediation rules of the UNCITRAL within a period of 60 days of the date when the application for alternative dispute resolution is filed and the mediators have been appointed or within a period as modified by the Parties in writing, the Parties shall have no further obligations

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under this paragraph and may apply to the ordinary courts for the resolution of the dispute concerned. This obligation to try to solve a dispute by means of alternative dispute resolution does, however, not apply, if the claims in dispute would become barred by limitation if no action is brought before a court, unless the other party to the Agreement explicitly and in writing waves the defence that the claim is barred by limitation.

**17. MISCELLANEOUS**

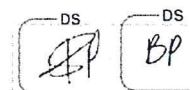
- 17.1 To the extent declarations to the other Party have to be made under this Agreement, such declarations must be sent to the address specified in this Agreement by the other Party or to another address as notified by the other Party for such purpose. To the extent that declarations pursuant to this Agreement have to be made in writing, they may only be delivered in person or sent by mail, courier or fax. In particular, delivery via e-mail is not sufficient.
- 17.2 This Agreement contains the entire provisions relating to the subject matter of this Agreement and replaces all previous provisions agreed between the Parties in respect of the subject matter of this Agreement. Annexes form an integral part of this Agreement. No oral side agreements have been made.
- 17.3 Any changes and amendments to this Agreement and any cancellation of this Agreement require written form and signature by duly authorised representatives.
- 17.4 If one or several provisions of this Agreement are or become invalid this shall not affect the validity and enforceability of the remaining provisions. The parties agree to replace an invalid or unenforceable provision by a valid and enforceable provision, which (from an economic point of view) comes closest to such provision.
- 17.5 For SAP's co-operation with Consultant, the provisions of this Agreement shall apply exclusively. Other provisions deviating or exceeding the provisions of this Agreement, in particular Consultant's general terms and conditions, shall not apply, irrespective of whether or not such other provisions have been expressly rejected by SAP.

**18. OPT-OUT TERMS**

SAP, including its parent company and affiliates hereby reserve the right at any point after the execution of this Agreement by the parties, to opt-out of its obligations under the terms of this Agreement without any recourse to the payment of damages or other liabilities or penalties to the Provider in the event that the report of a due diligence investigation conducted by SAP on the Provider reflects concerns which will make SAP unable to proceed with the terms of this Agreement.

Both parties agree that this document and its signature can be established in electronic form (sending by facsimile, scanned copy sent via e-mail, or electronic signature by using means implemented by SAP – for example DocuSign) and that, in electronic form, they shall be deemed originals.

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Accepted by:  
**Systems Applications Products (South Africa)  
(Proprietary) Limited**

Accepted by:  
**CAD House cc**

By: Deena Pillay

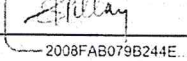
By: \_\_\_\_\_

Title: Chief Financial Officer

Title: \_\_\_\_\_

Date: August 20, 2015 | 07:05 PT

Date: \_\_\_\_\_

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By: Brett Parker

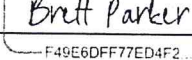
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Title: Managing Director – SAP Africa

Title: \_\_\_\_\_

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Signature: \_\_\_\_\_